



# OHIO LEGISLATIVE SERVICE COMMISSION

---

## Bill Analysis

Dennis M. Papp

### **Sub. H.B. 38**

132nd General Assembly  
(As Passed by the House)

**Reps.** Greenspan, Anielski, Barnes, Goodman, Keller, Kick, Lipps, Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young, Manning, Rezabek, Arndt, Brenner, Butler, Carfagna, Dever, Duffey, Edwards, Faber, Gavarone, Ginter, Hambley, Householder, Hughes, Johnson, Koehler, Landis, Lanese, LaTourette, O'Brien, Romanchuk, Ryan, Schaffer, Schuring, R. Smith, Stein

---

### **BILL SUMMARY**

- Expands the offense of aggravated murder to also include purposely causing the death of a first responder or military member whom the offender knows is a first responder or military member and it is the offender's specific purpose to kill a person in that capacity.
- Expands the offense of aggravated murder based on purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is such an officer to also apply when the victim is a federal law enforcement officer or a person who previously served in either capacity.
- Requires a mandatory prison term of three to 11 years for an attempt to commit aggravated murder of the type described in either of the two preceding dot points.
- Increases the penalty for felonious assault against a first responder or military member from a second degree felony, absent any specification, to a first degree felony if the offender specifically targeted the victim for being a first responder or military member.
- Requires a mandatory prison term of three to 11 years for felonious assault against a first responder or military member if the offender specifically targeted the victim for being a first responder or military member and the victim suffered serious physical harm.

- Provides that the first degree felony penalty for felonious assault against a peace officer or BCII investigator, and the three to 11-year mandatory prison term that applies when such a victim suffers serious physical harm, also apply when the victim is a federal law enforcement officer or a person who previously served in any of those capacities.

---

## CONTENT AND OPERATION

### Aggravated murder

The bill expands the offense of aggravated murder to also prohibit, in addition to the currently prohibited conduct, purposely causing the death of a "first responder" or "military member" (see the definitions, below) whom the offender knows or has reasonable cause to know is a first responder or military member if the offender's specific purpose is to kill a first responder or military member.<sup>1</sup>

One type of conduct currently prohibited under aggravated murder is when a person purposely causes the death of a law enforcement officer whom the offender knows or has reasonable cause to know is such an officer and either the officer was on duty or the offender's specific purpose was to kill a law enforcement officer. The bill expands that prohibition by adding to the definition of "law enforcement officer" any federal law enforcement officer and anyone who has previously served as a law enforcement officer as that term currently is defined or as a federal law enforcement officer. Currently, the term "law enforcement officer" includes any person within a list of persons set forth in R.C. 2911.01, not in the bill.<sup>2</sup>

The bill does not affect the other types of conduct currently prohibited under aggravated murder (i.e., purposely causing the death of another or the unlawful termination of another's pregnancy with prior calculation and design or while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit, any of a list of specified serious offenses; purposely causing the death of another who is under age 13; or while under detention after conviction of a felony or after breaking such detention, purposely causing the death of another).<sup>3</sup>

---

<sup>1</sup> R.C. 2903.01(F).

<sup>2</sup> R.C. 2903.01(E) and (H)(2).

<sup>3</sup> R.C. 2903.01(A) to (D).



Under existing law, unchanged by the bill, aggravated murder is a capital offense, punishable by death or life imprisonment.<sup>4</sup>

### **Attempted aggravated murder**

The bill requires a mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years for an attempt to commit aggravated murder of a first responder or military member, as described above, or an attempt to commit aggravated murder of a law enforcement officer, expanded as described above. The range of the specified mandatory term is the current range of prison terms for a first degree felony. Under current law, unchanged by the bill, an attempt to commit aggravated murder is a first degree felony. However currently, the prison term is not mandatory.<sup>5</sup>

### **Felonious assault**

Currently, felonious assault generally is a second degree felony, but is a first degree felony in specified circumstances.

The bill adds a new circumstance in which felonious assault is a first degree felony. It increases the penalty for felonious assault from a second degree felony, absent any specification, to a first degree felony if the offender committed the offense by knowingly causing serious physical harm to the victim or knowingly causing or attempting to cause physical harm to the victim by means of a deadly weapon, the victim is a "first responder" or "military member" (see the definitions, below), and the offender specifically targeted the victim because the victim was in that capacity. The bill requires a mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years for committing felonious assault if the offender committed the offense in that manner and under those circumstances and the victim suffered serious physical harm as a result of the assault.<sup>6</sup> The range of the specified mandatory term is the current range of prison terms for a first degree felony.

Under existing law, felonious assault is a first degree felony if the offender committed the offense by knowingly causing serious physical harm to the victim or knowingly causing or attempting to cause physical harm to the victim by means of a deadly weapon, and the victim is a peace officer or BCII investigator. If the victim suffered serious physical harm as a result of the assault, the court must impose a mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years (i.e., from the range for first

---

<sup>4</sup> R.C. 2903.01(G) and 2929.02(A) to 2929.06, not in the bill.

<sup>5</sup> R.C. 2923.02(E)(1) and (4).

<sup>6</sup> R.C. 2903.11(A) and (D)(1)(a), (c), and (d).



degree felonies).<sup>7</sup> The bill expands the definition of "peace officer" to include any federal law enforcement officer and anyone who has previously served as a peace officer or federal law enforcement officer. This change to the definition expands the applicability of increased penalties for felonious assault of a peace officer. Currently, the term "peace officer" includes any person within a list of persons set forth in R.C. 2935.01, not in the bill.<sup>8</sup>

## Definitions

As defined in the bill:

**"First responder"** means an emergency medical service provider, a firefighter, or any other emergency response personnel, or anyone who has previously served as a first responder.<sup>9</sup>

**"Military member"** means a member of the U.S. armed forces, reserves, or Ohio National Guard, a participant in ROTC, Junior ROTC, or any similar military training program, or anyone who has previously served in the military.<sup>10</sup>

---

## HISTORY

ACTION	DATE
Introduced	02-07-17
Reported, H. Criminal Justice	05-17-17
Passed House (96-0)	05-17-17

H0038-PH-132.docx/emr

---

<sup>7</sup> R.C. 2903.11(A) and (D)(1)(a) and (b).

<sup>8</sup> R.C. 2903.11(E)(3).

<sup>9</sup> R.C. 2903.01(H)(3) and 2903.11(E)(7).

<sup>10</sup> R.C. 2903.01(H)(4) and 2903.11(E)(8).

